

EXHIBIT 1

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7 THE HONORABLE MARSHA J. PECHMAN
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12 UNITED STATES DISTRICT COURT
13 WESTERN DISTRICT OF WASHINGTON
14 AT SEATTLE
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17 THE POKÉMON COMPANY
18 INTERNATIONAL, INC., a Delaware
19 corporation,

20 Plaintiff,

21 v.

22 BRYAN GARCIA CRUZ, an individual,
23 and DAVID ANDINO MAISONAVE, an
24 individual,

25 Defendant
Defendants
ts.

26 No. 19-cv-1911MJP

SECOND AMENDED COMPLAINT
WITH JURY DEMAND

27 Plaintiff The Pokémon Company International, Inc. (“Plaintiff” or “TPCi”), by and
28 through its undersigned attorneys, for its Second Amended Complaint against
29 DefendantDefendants Bryan Garcia Cruz (“Defendantand David Andino Maisonave
30 (“Defendants”)) hereby alleges and avers as follows:

31
32 INTRODUCTION

33 1. TPCi brings this action against DefendantDefendants to protect its valuable trade
34 secrets. DefendantMr. Andino stole trade secrets from TPCi by taking illicit pictures of pages
35 from an unreleased strategy guide created to accompany the release of two highly anticipated
36 video games, Pokémon Sword and Pokémon Shield. Mr. Andino had access to the strategy

37 SECOND AMENDED COMPLAINT
38 (No. 19-cv-1911MJP) – 1

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1 guide as an employee of LSC Communications US, LLC, a company hired to print copies of the
 2 strategy guide. The pictures revealed never-before-seen Pokémons and evolutions of Pokémons
 3 that TPCi and its partners intended to keep secret until the games' release on November 15,
 4 2019. On information and belief, Mr. Andino disclosed the pictures to a friend who shared them
 5 in a group chat that included Mr. Garcia. Over the course of 15 hours on November 1 and 2,
 6 2019, ~~Defendant~~Mr. Garcia disseminated TPCi's trade secrets on the Internet, causing TPCi
 7 harm.

8 2. Trade secrets are a form of intellectual property that provide legal protection for
 9 commercially valuable business and technical information that: (a) has been the subject of
 10 reasonable efforts to maintain its secrecy, and (b) derives independent economic value from not
 11 being generally known or readily ascertainable. Both the Defend Trade Secrets Act ("DTSA")
 12 and the Washington Uniform Trade Secrets Act ("WUTSA") protect trade secrets from
 13 misappropriation, which is the unauthorized acquisition, use, or disclosure of a trade secret.

14 3. TPCi owns valuable trade secrets in the images and content of the unreleased
 15 strategy guide for Pokémons Sword and Pokémons Shield. Before TPCi and its partners release a
 16 new game, they keep key components of that game—including certain of the new and returning
 17 Pokémons—secret.

18 4. There is value in this secrecy. The videogame industry is highly competitive with
 19 thousands of new games released annually. To maximize consumer interest and excitement in
 20 new Pokémons games, TPCi and its partners carefully time announcements about new Pokémons,
 21 features and functionality. When individuals disclose these details without TPCi's or its
 22 partners' consent (commonly called "leaks" or "spoilers") they threaten this value and
 23 undermine the carefully cultivated excitement and interest TPCi and its partners have worked so
 24 hard to generate. It also ruins the surprise for hundreds of thousands of Pokémons fans who are
 25 eagerly anticipating the release of the new game.

26
 SECOND AMENDED COMPLAINT
 (No. 19-cv-1911MJP) – 2

LEGAL149958863.3

Perkins Coie LLP
 1201 Third Avenue, Suite 4900
 Seattle, WA 98101-3099
 Phone: 206.359.8000
 Fax: 206.359.9000

5. TPCi seeks to hold ~~Defendant~~Defendants responsible for ~~his~~their misappropriation of TPCi's confidential and trade secret information, and requests all appropriate relief including but not limited to injunctive and monetary relief, damages, an accounting, and attorneys' fees.

PARTIES

6. TPCi is a Delaware corporation with its principal place of business at 10400 NE 4th Street, Suite 2800, Bellevue, Washington, 98004.

7. On information and belief, Bryan Garcia Cruz is an individual residing in Riverview, Florida.

8. On information and belief, David Andino Maisonave is an individual residing in Willard, Ohio.

JURISDICTION AND VENUE

9. 8. This Court has jurisdiction over the subject matter of Plaintiff's federal claim under 28 U.S.C. § 1331 and 18 U.S.C. § 1836(c) because the claims arise under the DTSA, 18 U.S.C. §§ 1832, *et seq.* This Court has supplemental jurisdiction over Plaintiff's related state law claim under 28 U.S.C. § 1337(a).

10. **9.** Personal jurisdiction over ~~Defendant~~Defendants is proper in this Court. As more fully set forth below, ~~Defendant~~Defendants misappropriated TPCi's valuable trade secrets and exposed those trade secrets on the Internet, undermining their inherent economic value. ~~Defendant~~Defendants directed ~~his~~their actions to Washington. ~~Defendant~~Defendants knew or should have known that the impact of ~~his~~their intentional acts would cause harm in this state, where TPCi is headquartered.

11. ~~10.~~ Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district and has harmed TPCi in this judicial district.

SECOND AMENDED COMPLAINT
(No. 19-cv-1911MJP) - 3

LEGAL.149958863.3

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1
2 **FACTS AND BACKGROUND**
3

4 **A. The Pokémon Franchise**

5 12. ~~11.~~TPCi is an internationally renowned media franchise centered on fictional
6 Pokémon characters featured in video games, trading cards, animated television shows, movies,
7 comic books, toys, apparel, and accessories (collectively the “Pokémon Universe”).
8

9 13. ~~12.~~A key part of the Pokémon Universe is the Pokémon video game series, a
10 group of role-playing games that challenges players to capture, train, battle and trade Pokémons
11 with the goal of becoming a champion Pokémons Trainer.
12

13 14. ~~13.~~New generations of Pokémons are introduced through the release of
14 video games in the series. When new video games are launched, they feature new Pokémons,
15 characters, landscape, and gameplay that define the generation.
16

17 15. ~~14.~~The first generation of Pokémons launched in 1996 with Pokémons Red and
18 Pokémons Blue, developed by GAME FREAK and published by Nintendo. TPCi worked on later
19 games including the games in the seventh~~and most recent~~ generation, Pokémons Sun and
20 Pokémons Moon, launched in 2016. The games in this series are wildly popular and have been
21 played by millions worldwide.
22

23 16. ~~15.~~In early 2019, TPCi’s partners announced that the eighth generation of
24 Pokémons would begin in late 2019 with the launch of two new games, Pokémons Sword and
25 Pokémons Shield. Pokémons Sword and Pokémons Shield were released simultaneously
26 worldwide on November 15, 2019.
27

28 17. ~~16.~~To create excitement and engagement surrounding the release and maximize
29 interest in Pokémons Sword and Pokémons Shield, the timing of the announcements and ultimate
30 release were carefully planned. For example, to encourage fan engagement around and interest
31 in the games, teasers were released in the summer and fall of 2019 that described several of the
32 new Pokémons available exclusively in Pokémons Sword and Pokémons Shield.
33

1 18. 17. Among the most exciting parts of Pokémon Sword and Pokémon Shield are
 2 the new landscapes, features, and Pokémon available in the games. The games chronicle the
 3 main character's journey through the Galar region, a new Pokémon setting inspired by the
 4 United Kingdom. The player aims to gain prominence by collecting, trading, and battling
 5 Pokémon. The player's goal is to defeat the reigning champion trainer and seize that title for
 6 him or herself.

7 19. 18. Pokémon Sword and Pokémon Shield introduce several highly anticipated
 8 new features. These include functions known as Dynamax and Gigantamax that increase the size
 9 (Dynamax) and change form (Gigantamax) of Pokémon to make them stronger for battle. While
 10 all Pokémon can be Dynamaxed, only certain Pokémon can be Gigantamaxed and they can be
 11 found only through certain events in Galar.

12 20. 19. The games also introduces the "Wild Area" that permits the player to explore
 13 freely while controlling the camera, which enables optimal movement. Players in the Wild Area
 14 can band together to defeat powerful Pokémon, a feature called co-op battling. Players can also
 15 join together in Pokémon camps, where, among other things, they interact with each other's
 16 Pokémon.

17 21. 20. Pokémon Sword and Pokémon Shield introduce new species of Pokémon that
 18 players can collect, train, and deploy in battles against competitors. Discovering new Pokémon
 19 in the Galar region is part of the thrill of the games.

21 **B. The Pokémon Sword and Pokémon Shield Strategy Guide**

22 22. 21. TPCi developed an official strategy guide to accompany the release of
 23 Pokémon Sword and Pokémon Shield, called *Pokémon Sword & Pokémon Shield: The Official*
 24 *Galar Region Strategy Guide* ("Strategy Guide"). The Strategy Guide includes tips and tricks on
 25 how to play the game as well as images of Galar Pokémon. There is also a collector's edition of
 26 the Strategy Guide. The collector's edition of the Strategy Guide is shown below:



23. ~~22.~~ The Strategy Guide was available for purchase on November 22, 2019, one week after TPCi and its partners released Pokémon Sword and Pokémon Shield.

10 C. The Unreleased Strategy Guide Contained TPCi's Trade Secrets

11 24. ~~23.~~ The Strategy Guide contains components of Pokémon Sword and Pokémon
12 Shield that TPCi worked diligently to keep secret prior to the games' launch. This includes
13 images and descriptions of Pokémon released for the first time in Pokémon Sword and Pokémon
14 Shield. It also includes images of new evolutions for existing Pokémon, that is, forms the
15 Pokémon assume as they gain experience and strength.

16 25. ~~24.~~ The Strategy Guide also reveals which Pokémon can be Gigantamaxed and
17 where in Galar players can deploy this feature. This enables players who purchase the Strategy
18 Guide to collect and train Pokémon they know can grow to become powerful in battle.

19 26. ~~25.~~ The Strategy Guide collector's edition contains bonus features such as
20 exclusive artwork and images of Galar Pokémon.

21 27. ~~26.~~ Prior to the official release of Pokémon Sword and Pokémon Shield,
22 information about the games' content was treated with utmost secrecy. For example, TPCi
23 performed background checks on employees, stored game content files on secure computers,
24 restricted access to game working files to a limited number of individuals (who could only gain
25 access to files by entering a username and password), allowed those individuals to transfer game
26 files using only secured methods, used digital measures to trace and mark files to prevent

1 unauthorized access, and required users with access to game files to sign non-disclosure
 2 agreements. Additionally, access to TPCi's offices were restricted by key card.
 3

4 28. 27. These measures also applied to the Strategy Guide. In addition, TPCi
 5 required contractors who work on Strategy Guide content to sign non-disclosure agreements.
 6 This included contractors who worked where any Strategy Guides were stored.

7 29. 28. TPCi did not allow copies or proofs of the Strategy Guide to be printed at its
 8 offices. Physical copies of the Strategy Guide were created during the production process, which
 9 was handled by vendors including LSC Communications. Each production vendor signed a
 10 non-disclosure agreement and provided an elevated security plan. Printed copies of the Strategy
 11 Guide were to be kept in secure areas with limited access where the books were concealed under
 12 tarps. Only production facility employees with proper security clearance hadwere to have access
 13 to the Strategy Guide during the production process. Those with permission to access the
 14 secured areas were not to be permitted to bring in cellular phones or cameras.

15 30. 29. TPCi derived significant economic value from maintaining the secrecy of
 16 details of Pok  mon Sword and Pok  mon Shield and the Strategy Guide prior to the games'
 17 release. The company's and its partners' carefully planned and timed publicity strategy stokes a
 18 swell of media interest and fan enthusiasm that results in a substantial number of players
 19 purchasing the games. For example, TPCi partner GAME FREAK released a 16-minute video
 20 on June 6 that teases key features of Pok  mon Sword and Pok  mon Shield. The video has more
 21 than 4.2 million views and 125,000 likes on YouTube.¹ An earlier video that announced
 22 Pok  mon Sword and Pok  mon Shield and promised their release in late 2019 garnered nearly 6
 23 million views and more than 180,000 likes.

24 **D. DefendantDefendants Stole Trade Secrets from the Strategy Guide and Leaked
 25 Them on the Internet**

26 31. LSC Communications was hired to print copies of the Strategy Guide.

¹ <https://www.youtube.com/watch?v=PpjVUOJkX-s&list=PL2JiZAV5BmDXWAFFoDmnBipVPC-wuoVP&index=7&t=0s>.

1 32. During October and November 2019, LSC Communications employed Mr.
 2 Andino at its Willard, Ohio facility as a bindery material handler on the “700 line.” Mr.
 3 Andino’s responsibilities included feeding or piling down materials at the equipment in the
 4 facility, organizing the printed materials based on customer specifications, and assembling the
 5 printed materials into bundles.

6 33. Mr. Andino was present and working at LSC Communications’ facility while
 7 copies of the Strategy Guide were being printed in the days leading up to the Strategy Guide
 8 leak.

9 34. On information and belief, while at LSC Communications’ facility, Mr. Andino
 10 took pictures of TPCi’s unreleased Strategy Guide on or about November 1, 2019.

11 35. On information and belief, Mr. Andino shared the illicit pictures of the Strategy
 12 Guide with a mutual friend of Mr. Garcia’s.

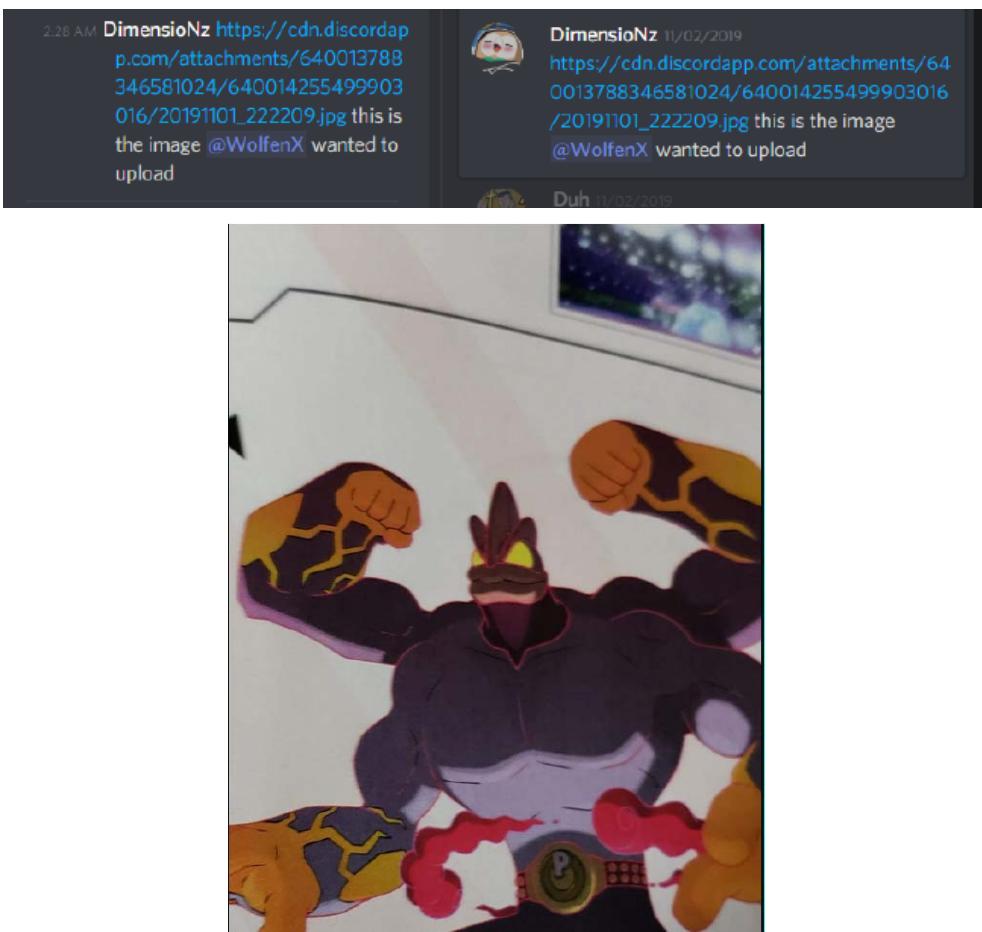
13 36. On information and belief, that mutual friend shared the pictures of the Strategy
 14 Guide in a group chat that included Mr. Garcia.

15 37. 30. On or about November 1, 2019, ~~Defendant~~Mr. Garcia began releasing the
 16 pictures of TPCi’s unreleased~~the~~ Strategy Guide that disclosed numerous never-before-seen
 17 Pokémon, including their special forms and attributes.

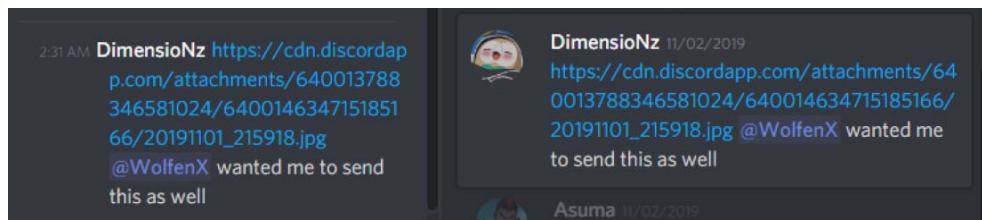
18 38. 31. At approximately 7:28 p.m. (PDT),² ~~Defendant~~Mr. Garcia worked with others
 19 to post the first leaked picture of a new Pokémon, Gigantamax Machamp, on Discord, a free
 20 platform that provides text, image, video, and audio communications between users in a chat
 21 channel. A screenshot of the message with the first Discord Strategy Guide leak is attached as
 22 Exhibit 1, and the image that appears after clicking the .jpg hyperlink in the message is attached
 23 as Exhibit 2.

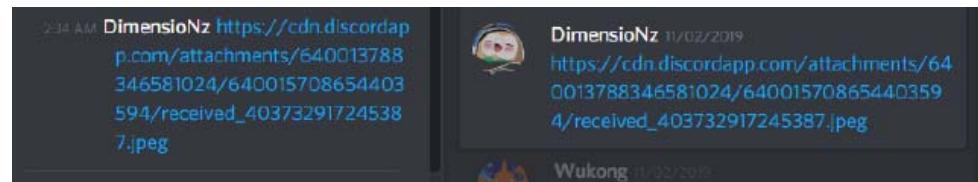
26

² The screenshots of the Discord posts contain time stamps that are shown in Universal Time Coordinated (“UTC”). PDT is 7 hours behind UTC.



16 39. 32. Over the course of the next 15 hours, DefendantMr. Garcia and those working
17 with him posted an additional 18 pictures from the unreleased Strategy Guide on Discord. These
18 18 posts are attached as Exhibits 3-38. The following are select examples of the Discord
19 messages, with the corresponding images immediately below:





40. ~~33.~~ Several of the images Defendant Mr. Garcia leaked are present only in the collector's edition of the Strategy Guide. *See Exs. 8, 14, 32.*

41. ~~34.~~ Discord enables its users to post anonymously. Discord users need only an email address to create an account and they create usernames to communicate on the platform. A user can change the username associated with their account at any time, making it more difficult to track a specific Discord user.

42. ~~35.~~ Once posted on Discord, the leaked pictures rapidly spread across the Internet. Within minutes of the first post for each picture, the picture was re-posted on 4chan (an Internet

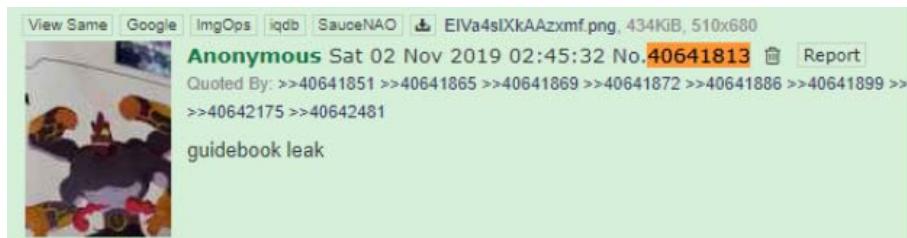
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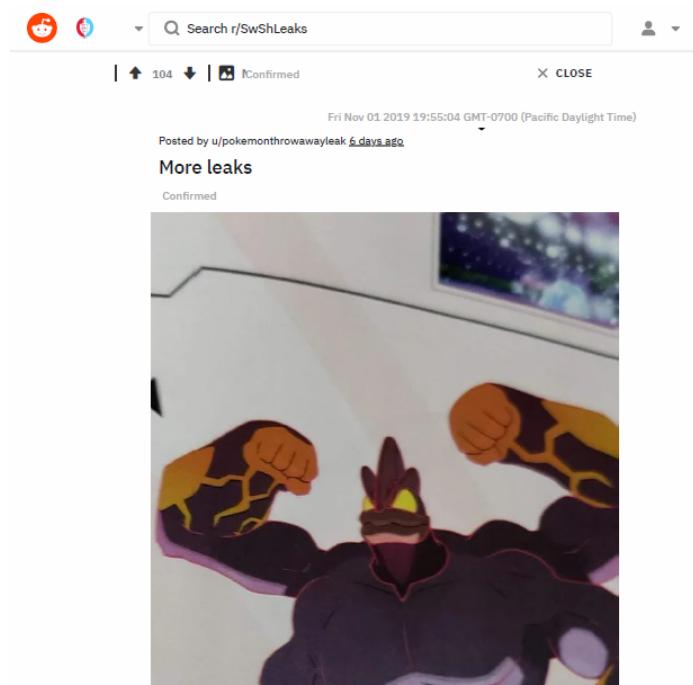
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Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 forum where users can post and comment on images anonymously) and then on a dedicated
 2 forum on Reddit for leaked information regarding Pok  mon Sword and Pok  mon Shield.
 3

4 43. 36. For example, 17 minutes after Defendant Mr. Garcia leaked the first picture on
 5 Discord, it was posted on 4chan:³



6 44. 37. And within 27 minutes of the original Discord post, the picture was already on
 7 Reddit:⁴



8 45. 38. From there, the pictures quickly reached a worldwide audience across the
 9 Internet.
 10

11 46. 39. TPCi reacted swiftly. It identified over 300 URLs on dozens of platforms that
 12 linked to websites containing the leaked Strategy Guide pictures. The leaked pictures appeared
 13

³ Like the Discord posts, the 4chan post time stamp is on UTC.

⁴ The screenshot of the Reddit post contains a time stamp shown in PDT, which is 7 hours behind UTC.

on mainstream social media platforms such as Facebook, Twitter, and Imgur, as well as popular video game news outlets such as Polygon and Dot Esports, and numerous Nintendo-focused forums and blogs.

47. ~~40.~~ In an effort to mitigate the damage caused by ~~Defendant's~~Defendants' leaks, TPCi submitted takedown requests to the platforms to remove the leaked images.

48. ~~41. Defendant~~Defendants disclosed images of multiple Pokmon, the Gigantamax form for certain Pokmon, and the attributes (such as type and weaknesses) for others. This information had previously never been revealed to the public—TPCi kept it secret to build anticipation for the release of Pokmon Sword and Pokmon Shield.

49. 42. Defendant's Defendants' trade secret theft and subsequent leak harmed TPCi by disrupting its ability to market Pokmon Sword and Pokmon Shield and the Strategy Guide, reducing the fan interest and engagement TPCi and its partners generate by keeping key elements of the games secret, and disclosing certain of the contents of the unreleased Strategy Guide, which gamers purchase to obtain the information Defendant Defendants leaked.

FIRST CAUSE OF ACTION

(Violation of the Defend Trade Secrets Act, 18 U.S.C. §§ 1832, *et seq.*)

50. ~~43.~~ TPCi repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

51. ~~44.~~ TPCi owned and/or possessed certain confidential and trade secret information relating to the Pokmon Sword and Pokmon Shield video games, including non-public information concerning new characters, developments, features, and functionality in Pokmon Sword and Pokmon Shield.

52. ~~45.~~ TPCi's confidential and trade secret information relates to products and services that are used, sold, shipped and/or ordered in, or that are intended to be used, sold, shipped and/or ordered in, interstate or foreign commerce.

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1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 53. 46. TPCi and its partners took reasonable steps to protect the secrecy of its
 2 confidential and trade secret information, including the secrecy of the information
 3 ~~Defendant~~Defendants misappropriated. For example, TPCi conducted background checks on
 4 employees, stored game content files on secure computers, restricted access to game working
 5 files to a limited number of individuals (who can only gain access to files by entering a username
 6 and password), allowed those individuals to transfer game files using only secured methods,
 7 used digital measures to trace and mark files to prevent unauthorized access, and required users
 8 with access to game files to sign non-disclosure agreements. Additionally, access to TPCi's
 9 offices were restricted by key card.

10 54. 47. Further, TPCi required contractors who worked on the Strategy Guide content
 11 to sign non-disclosure agreements. This included contractors who worked where any Strategy
 12 Guides were stored.

13 55. 48. TPCi's confidential and trade secret information derived independent
 14 economic value from not being generally known to, and not being readily ascertainable through
 15 proper means by, another person who can obtain economic value from the disclosure or use of
 16 the information.

17 56. 49. ~~Defendant~~Defendants misappropriated TPCi's confidential and trade secret
 18 information by, *inter alia*, acquiring it, using it, and disclosing it to third parties without TPCi's
 19 consent. This includes taking surreptitious pictures of the Strategy Guide and working with
 20 others to disseminate that confidential information over the Internet to a wide audience of
 21 would-be customers.

22 57. 50. ~~Defendant's~~Defendants' conduct has caused irreparable injury to TPCi.

23 58. 51. ~~Defendant's~~Defendants' misappropriation of TPCi's confidential and trade
 24 secret information has also caused TPCi substantial injury, including, *inter alia*, actual damages,
 25 lost profits, harm to reputation, competitive harm, and diminution in value of its trade secrets.
 26 ~~Defendant's~~Defendants' misappropriation was also willful and malicious.

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 1201 Third Avenue, Suite 4900
 Seattle, WA 98101-3099
 Phone: 206.359.8000
 Fax: 206.359.9000

59. ~~52.~~ As a result of the foregoing, TPCi has been damaged and is entitled to damages in an amount to be proven at trial, as well as injunctive relief and an award of exemplary damages and attorneys' fees pursuant to 18 U.S.C. § 1836(b)(3)(C)-(D).

SECOND CAUSE OF ACTION

(Violation of the Washington Uniform Trade Secrets Act, RCW 19.108.010 et seq.)

60. ~~53.~~ TPCi repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

61. ~~54.~~ TPCi owned and/or possessed certain confidential and trade secret information relating to the Pokmon Sword and Pokmon Shield video games, including non-public information concerning new characters, developments, features, and functionality in Pokmon Sword and Pokmon Shield.

62. ~~55.~~ TPCi's confidential and trade secret information derived independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who could obtain economic value from its disclosure or use

63. ~~56.~~-TPCi and its partners took steps reasonable under the circumstances to protect the secrecy of its confidential and trade secret information, including the secrecy of the information ~~Defendant~~Defendants misappropriated. For example, TPCi conducted background checks on employees, stored game content files on secure computers, restricted access to game working files to a limited number of individuals (who can only gain access to files by entering a username and password), allowed those individuals to transfer game files using only secured methods, used digital measures to trace and mark files to prevent unauthorized access, and required users with access to game files to sign non-disclosure agreements. Additionally, access to TPCi's offices were restricted by key card.

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1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

64. ~~57.~~ Further, TPCi required contractors who work on the Strategy Guide content to sign non-disclosure agreements. This includes contractors who work where any Strategy Guides are stored.

65. **58. DefendantDefendants** misappropriated TPCi's confidential and trade secret material by acquiring TPCi's trade secrets through improper means, including by improperly gaining access to a copy of the unreleased Strategy Guide and photographing it without TPCi's consent. **DefendantDefendants** worked with others to widely disclose TPCi's trade secrets without TPCi's express or implied authorization by posting images of the Strategy Guide on the Internet. At the time of this disclosure, **DefendantDefendants** knew or had reason to know that the unreleased Strategy Guide images were trade secrets.

66. ~~59. Defendant's~~Defendants' conduct has caused irreparable injury to TPCi.

67. ~~60. Defendant's~~Defendants' misappropriation of TPCi's confidential and trade secret information has also caused TPCi substantial injury, including, *inter alia*, actual damages, lost profits, harm to reputation, competitive harm, and diminution in value of its trade secrets. ~~Defendant's~~Defendants' misappropriation was also willful and malicious.

68. ~~61.~~ As a result of the foregoing, TPCi has been damaged and is entitled to damages in an amount to be proven at trial, as well as injunctive relief and an award of attorneys' fees pursuant to RCW 19.108.040.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), plaintiff demands a trial by jury as to all issues so triable in this action.

PRAYER FOR RELIEF

WHEREFORE, plaintiff The Pokémon Company International, Inc., prays for the following relief:

A. For compensatory damages for all losses caused by Defendant'sDefendants' wrongful conduct;

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Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 B. For monetary relief, including actual damages and equitable relief due to
2 Defendant's Defendants' wrongful conduct pursuant to 18 U.S.C. §
3 1836(b)(3)(B)(i) and RCW 19.108.030;
4 C. For punitive and exemplary damages pursuant to 18 U.S.C. § 1836(b)(3)(C);
5 D. For reasonable attorneys' fees and costs pursuant to 18 U.S.C. §
6 1836(b)(3)(D) and RCW 19.108.040;
7 E. ~~For permanent injunctive relief to prevent Defendant from making any further
8 use, disclosure or other misappropriation of TPCi's confidential and trade
9 secret information;~~
10 E. F. For an award of prejudgment interest and costs of suit to the extent
11 permitted by law; and
12 E. G. For such other relief as the Court may deem just and proper.

14 DATED this 26th day of
15 MarchNovember, 2020

By: s/ Holly M.
Simpkins

Holly M. Simpkins, WSBA No. 33297
Lauren W. Staniar, WSBA No. 48741
Jacob P. Dini, WSBA No. 54115
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000
Email: HSimpkins@perkinscoie.com
Email: LStaniar@perkinscoie.com
Email: JDini@perkinscoie.com

23 Attorneys for Plaintiff
24 The Pokémon Company International, Inc.
25
26

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Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000